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**THE UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
**SAN FRANCISCO DIVISION**

CAROL ANN WINNETT as Wrongful  
 Death Heir, and as Successor-in-Interest to  
 GEORGE WINNETT, Deceased; and  
 J.R.W., a minor, by and through his  
 Guardian Ad Litem, CAROL ANN  
 WINNETT, as Legal Heir of GEORGE  
 WINNETT, Deceased,

Plaintiff,

vs.

GENERAL ELECTRIC COMPANY and  
 DOES 1-300,

Defendants.

No. C06-3288 EDL

JOINT MOTION AND STIPULATION TO  
 STAY PROCEEDING OR, IN THE  
 ALTERNATIVE, TO CONTINUE CASE  
 MANAGEMENT DEADLINE AND  
 CONFERENCE, AND TO EXTEND TIME;  
~~[PROPOSED] ORDER TO STAY;~~  
~~[PROPOSED ALTERNATIVE] ORDER~~  
 TO CONTINUE

Pursuant to Civil L. R. 7-11 and 7-12, the following parties hereby stipulate to, and respectfully move the Court for, an Order extending time as set forth in the *Case Management Scheduling Order* filed May 18, 2006 (Document 2), for the following good cause:

On July 6, 2006, Defendant GENERAL ELECTRIC COMPANY filed a Notice to Tag Along Action regarding the pending Multidistrict Litigation (“MDL”) in the Eastern District of Pennsylvania, seeking among other things, to move Jurisdiction of this matter to that District.

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1 On July 29, 1991, the Judicial Panel on Multidistrict Litigation (“JPML”) entered an  
2 order transferring all asbestos personal injury cases pending in the federal courts to the United  
3 States District Court for the Eastern District of Pennsylvania, for coordinated pretrial  
4 proceedings pursuant to 28 U.S.C. § 1407. That order also applies to “tag-along actions,” or  
5 actions involving common questions of fact filed after January 17, 1991. Such actions are to be  
6 transferred to the eastern District of Pennsylvania as part of MDL 875, for coordinated pretrial  
7 proceedings.

8 The JPML has held that a district court has the authority to stay pending a transfer order.  
9 *In re Asbestos Products Liability Litigation*, 170 F. Supp. 2d 1348, 1349 n.1 (J.P.M.L. 2001)  
10 (“[T]hose courts concluding that such issues should be addressed by the transferee judge need  
11 not rule on them, and the process of 1407 transfer in MDL-875 can continue without any  
12 unnecessary interruption or delay.”)

13 The parties agree that it is likely that the JPML will transfer this matter to the Eastern  
14 District of Pennsylvania.

15 However, to date, the Clerk of the JPML has not entered a *Conditional Transfer Order*  
16 pursuant to JPML Rule 12(a) or filed an order to show cause why the action should not be  
17 transferred, pursuant to JPML Rule 13(b).

18 It is likely the dates set forth in the *Case Management Scheduling Order* filed May 18,  
19 2006 (Document 2), including the deadlines imposed by Federal Rules of Civil Procedure 26,  
20 will come to pass before the Clerk of the JPML acts.

21 The parties make this Motion on the grounds that a stay of this action would (a) promote  
22 judicial efficiency, (b) allow consistency in pretrial rulings, and (c) be most convenient to the  
23 parties.

24 Due to the pending action by the Clerk of the JPML, the parties hereby STIPULATE to  
25 and respectfully request the Court VACATE its *Case Management Scheduling Order* filed May  
26 18, 2006 (Document 2) and that the Court issue an Order STAYING this action pending the  
27 outcome of the MDL Panel’s decision on the merits of the transfer.

28 //

1 In the alternative, the parties hereby STIPULATE to and respectfully request that the  
2 dates set forth in the *Case Management Scheduling Order* filed May 18, 2006 (Document 2),  
3 vacated and continued pending the outcome of the JPML's decision on the merits of the transfer.  
4 Specifically, these deadlines in this matter include the **August 1, 2006** Rule 26 deadline to meet  
5 and confer, and file Joint ADR Certification, the **August 1, 2006** Deadline to complete Initial  
6 Disclosures, the **August 15, 2006** deadline to file the Joint Case Management Statement and the  
7 Case Management Conference currently set for **August 22, 2006**.

8 Dated: June 29, 2006

BRAYTON ♦ PURCELL LLP

9 /s/ David R. Donadio

10 By: \_\_\_\_\_  
11 David R. Donadio  
12 Attorneys for Plaintiff

13 Dated: July 6, 2006

SEDGWICK, DETERT, MORAN &  
ARNOLD, LLP

14 /s/ Damon McClain

15 By: \_\_\_\_\_  
16 Damon McClain  
17 Attorneys for Defendant  
GENERAL ELECTRIC COMPANY

18 ~~[PROPOSED] ORDER TO STAY~~

19 ~~IT IS HEREBY ORDERED that the hearing date and deadlines specified in the~~  
20 ~~Case Management Scheduling Order filed May 18, 2006 (Document 2), are hereby VACATED~~  
21 ~~and that this action is STAYED pending the outcome of the JPML's decision on the merits of the~~  
22 ~~transfer.~~

23 ~~Dated:~~ \_\_\_\_\_

24  
25 \_\_\_\_\_  
26 Elizabeth D. Laporte  
27 United States Magistrate Court Judge  
28 //

~~[PROPOSED ALTERNATIVE]~~ ORDER TO CONTINUE

IT IS HEREBY ORDERED that the hearing date and deadlines specified in the *Case Management Scheduling Order* filed May 18, 2006 (Document 2), are hereby VACATED.

IT IS FURTHER ORDERED that the following case management deadlines are continued as follows:

1. Last day to meet and confer re initial disclosures, early settlement, ADR process selection, and discovery plan is ~~[set for a date on or after November 15, 2006 to wit:]~~

November 28, 2006;

2. Last day to file Joint ADR Certification with Stipulation to ADR process or Notice of Need for ADR Phone Conference is ~~[set for a date after November 15, 2006 to wit:]~~

November 28, 2006;

3. Last day to complete initial disclosures or state objection to Rule 26(f) Report, file/serve Case Management Statement and file/serve Rule 26(f) Report is ~~[set for a date after November 15, 2006 to wit:]~~ December 12, 2006; and

4. The Case Management Conference is ~~[set for a date after November 15, 2006 to wit:]~~ December 19 2006 at 10:00 a.m., Courtroom "E", 15th Floor, 450 Golden Gate Avenue, San Francisco, California.

Dated: July 20, 2006

